

Application No.: 10/696,037  
Attorney Docket No.: 032054  
Response under 37 CFR §1.111

### **REMARKS**

Claims 1, 2 and 13 are pending in the present application.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **Ross-Messemer** (US 6,885,491); and claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over **Ross-Messemer** in view of **Sullivan** (US 2004/0160421).

Favorable reconsideration is requested.

(1) Applicants respectfully submit that Ross-Messemer does not teach or suggest:

a control section for controlling the wave number of the burst wave to be applied to said excitation section, based on the strength of surface acoustic waves measured by the measuring section

as recited in claim 1 and the method step as similarly recited in claim 13.

The Office Action acknowledges that Ross-Messemer does not disclose a control section for controlling the wave number of a burst wave. (Office Action, page 3.) The Office Action takes the position that the frequency of a signal is mathematically related to the wavelength and wave number, and thus, Ross-Messemer teaches a control section for controlling the wave number of the burst wave. (Office Action, page 3.)

However, a detector to detect the propagation speed of the signal is needed to relate the frequency of the signal to the wavelength and the wave number. Ross-Messemer mentions that “the propagation speed of the surface waves as well as the distance of the sub-electrodes of the electro-acoustic transducer or the acoustico-electric transducer are temperature dependent.” (Col. 6, lines 3-6.) However, Ross-Messemer does not disclose a device for detecting propagation

speed, and thus, it is not possible in Ross-Messemer, to convert and/or mathematically relate the frequency of the acoustic wave to the wave number of a burst wave. Therefore, control section 77 of Ross-Messemer cannot control the wave number of a burst wave.

(2) Applicants respectfully submit that Ross-Messemer is in a non-analogous art compared with the field of the present invention and thus is not relevant prior art.

For purposes of a rejection under 35 U.S.C. § 103, prior art must be either in the field of applicant's endeavor or be reasonably pertinent to the particular problem with which the applicant was concerned. MPEP § 2141.01(a). A reference may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention considering the invention as a whole. *Id.*

Ross-Messemer discloses a diffraction-optical component for providing a radiation-diffraction grating structure. The grating structure is provided by surface waves on a surface of a substrate for diffracting and deflecting an incident beam of light. (Col. 1, lines 10-15.) The device of Ross-Messemer can be used for an illumination system by which a beam of light can be deflected and controlled or for an exposure system for imaging a pattern provided on a mask onto a substrate. (Col. 1, lines 22-33.)

The present invention as recited in the claims relates to a touch panel device and a contact position detecting method. The field of diffraction optical components is not a field which would logically commend itself to an inventor in the field of touch panel devices. Therefore, Ross-Messemer is non-analogous and irrelevant prior art.

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For at least the foregoing reasons, claims 1, 2 and 13 are patentable over the cited references. Accordingly, withdrawal of the rejection of claims 1, 2 and 13 is hereby solicited.

In view of the above remarks, Applicants submit that the claims are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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